

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CHARLES A. STANFORD, and)
KIMBERLY STANFORD, husband and wife,)
)
Plaintiffs,)
)
v.)
)
LIBERTY MUTUAL FIRE INSURANCE)
COMPANY, *et al.*,)
)
Defendants.)

Case No. CIV-14-1306-D

ORDER

Before the Court is Defendants' Motion to Dismiss [Doc. No. 5]. Plaintiffs have responded to the Motion [Doc. No. 9] and Defendant Liberty Mutual Fire Insurance Company has replied [Doc. No. 10]. The matter is fully briefed and at issue.

Defendants Liberty Mutual Fire Insurance Company, Liberty Mutual Group, Inc., T.J. Lawrence (Lawrence) and Christopher Dodd (Dodd) move for dismissal of the following claims alleged in the Petition [Doc. No. 1-2] originally filed in state court and removed to this Court: negligence in the procurement of insurance (Fourth Cause of Action); constructive fraud and negligent misrepresentation (Fifth Cause of Action); negligent underwriting (Sixth Cause of Action); violations of the Oklahoma Consumer Protection Act (Seventh Cause of Action); breach of contract and bad faith against Defendants Liberty Mutual Group, Lawrence and Dodd (First and Second Cause of Action); and breach of fiduciary duty (Third Cause of Action). Defendants expressly state that they do *not* move for dismissal of Plaintiffs' breach of contract claim and bad faith/breach of the duty of good faith and fair dealing claims (First, Second and Eighth Causes of Action) against Defendant Liberty Mutual Fire Insurance Company.

Subsequent to the filing of Defendants' Motion to Dismiss, the parties submitted a Stipulation of Partial Dismissal [Doc. No. 8] pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii). The parties stipulated to the dismissal without prejudice of Defendants Liberty Mutual Group, T.J. Lawrence, Christopher Dodd and Michael R. Sohn.

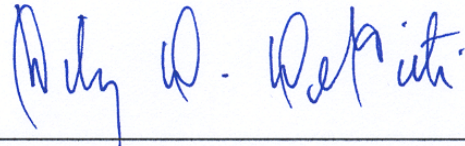
Simultaneously with the filing of the Stipulation of Partial Dismissal, Plaintiffs filed their Response to Defendants' Motion to Dismiss [Doc. No. 9]. Based on the partial dismissal, Plaintiffs contend no response is required as to Defendants' motion to dismiss their Third, Fourth, Fifth, Sixth and Seventh Causes of Action. In addition, Plaintiffs contend no response is required as to claims raised against Liberty Mutual Group, Inc., Lawrence or Dodd because these Defendants have been dismissed from the action. Plaintiffs concede that they "voluntarily dismiss the Third, Fourth, Fifth, Sixth and Seventh causes of action along with the Defendants, Liberty Mutual Group, Inc., T.J. Lawrence, Christopher Dodd and Michael R. Sohn." *See* Response at p. 5.

In Defendant Liberty Mutual Fire Insurance Company's Reply, Defendant recognizes that "[p]ursuant to the Joint Stipulation of Partial Dismissal [Doc. No. 8], the present lawsuit has been limited to Plaintiffs' claims for bad faith and breach of contract against Liberty Mutual Fire Insurance Company only." *See* Reply at p. 1. Defendant further states: "in accordance with Plaintiffs' Response to Defendant Liberty Mutual Fire Insurance Company's Motion to Dismiss [Doc. No. 9], there are no issues remaining before the Court." *See id.* at p. 2.

Based on the parties' Joint Stipulation of Partial Dismissal [Doc. No. 8] and the representations of the parties in their respective briefing pending before the Court, the Court concludes that no further analysis of the issues presented in Defendants' Motion to Dismiss is necessary and Defendants' Motion should be GRANTED.

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss [Doc. No. 9] is GRANTED. Plaintiff's action shall proceed solely as to their claims for Breach of Contract (First Cause of Action) and Bad Faith/Breach of the Duty of Good Faith and Fair Dealing (Second and Eighth Causes of Action) against Defendant Liberty Mutual Fire Insurance Company.

IT IS SO ORDERED this 31st day of December, 2014.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE